ESSAYS

IN THE

FINANCIAL HISTORY OF CANADA

BY

JAMES A. McLEAN, A.M.

University Fellow in Political Science.

SUBMITTED IN PARTIAL FULFILMENT OF THE REQUIREMENTS FOR THE DEGREE OF DOCTOR OF PHILOSOPHY IN THE UNIVERSITY FACULTY OF POLITICAL SCIENCE, COLUMBIA COLLEGE.

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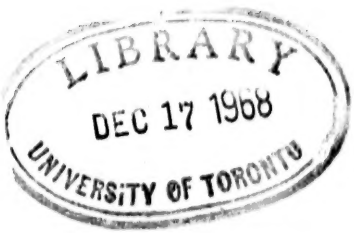

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* *These Essays are in manuscript.*

III.

The Crown Revenues.*

In this essay we shall try to see to what extent the difficulties between Great Britain and her North American colonies during the second quarter of this century may be regarded as a dispute over the control of certain revenues arising in the provinces; and to what extent the granting of responsible government in 1847 was incident to the surrender by Great Britain of all claim to that control.

Until the decade from 1845 to 1855 in all the British North American provinces there existed a distinction, more or less clearly recognized, between the revenues which were at the disposal of the local legislatures and those which were under the exclusive control of the Lords of the Treasury in England or their subordinate officers, the Governors in Council in the different provinces. The former were expended upon local improvements and in payment of the officers of the legislature, the latter for the support of the executive. This, at any rate, was the theory. But in practice the two funds were received and paid out by the same official and were thus very often confused. In each of the colonies, therefore, the Crown Revenues formed a fund by which

* Christie's "History of Lower Canada" contains a good many quotations from original sources. The rest must be looked for in the Colonial and State papers, the journals of the Assemblies and Councils, and the public accounts.

the government could be carried on independently of the wishes of the legislature; and it soon became clear to the people of the provinces who desired a responsible government that the first and most necessary step was to secure control, not only of their own provincial revenues, which they had not always guarded with sufficient care, but of the crown revenues as well. Indeed, their aim can not be said to have been so much to secure "responsible government" by means of obtaining control of all the public revenues, but rather, simply as a pure business matter, and as an end in itself, to manage what they conceived to be their own property in their own way. This point once gained what was called responsible government necessarily appeared. For when in 1847 the British Government finally surrendered control, Lord Elgin, aside from his own predilections in favour of self-government in the colonies, would have been obliged, as William III. was obliged at the end of the seventeenth century, to choose those ministers who could induce Parliament to vote the supplies.

But during the second quarter of this century the struggle went on. It may perhaps be conveniently divided into three stages :

I. The struggle to obtain control of the duties levied under acts passed prior to 18 Geo. III.—the Declaratory Act.

II. The struggle to obtain control of the Revenues arising from the domains of the crown—public lands, mines, forests, the king's posts, etc.

III. **The struggle to obtain control of the Civil List with which the Government of Great Britain had conditioned its surrender of the last mentioned revenues.**

Nova Scotia received a representative assembly in 1758, New Brunswick in 1784, and Upper and Lower Canada in 1791. In all of these colonies the Crown revenues were at first unequal to the expenditure for civil government. As the colonial governors were at the head of a military as well as a civil establishment, the deficiency, though often temporarily supplied from the strictly provincial revenues, was in most cases finally made up by drafts upon the army and navy estimates at home. Until 1826 Upper Canada received aid from the Imperial Treasury, Nova Scotia, until 1831, and Prince Edward Island until 1851. Some of the early governors are found even recommending that the people be not asked to levy taxes on themselves for fear that they might desire to control the revenues arising from them.

So long as the revenues were insufficient to meet the expenditures, the governor was willingly left to 'live of his own'—assisted by grants from the government at home. The colonists were in no hurry to raise the question of constitutional principle. In Lower Canada they seem for a number of years to have overlooked the unauthorized appropriation of revenues strictly provincial. In Upper Canada an occasional burst of loyal feeling might induce them to grant something "in aid of His Majesty's revenues" But in no case were the colonists eager to

assume the whole charge of civil government when that would mean an increase in the burden of taxation. But the very first year (1810) in which the returns showed an excess of receipts from all sources over expenditure, we find the assembly of Lower Canada drafting a petition "that the Legislature may be allowed to assume the charge of the civil government of this Province"; which of course meant nothing else than that all the public funds—the Crown revenues as well as the Provincial—should be placed under the Legislature's control.

The war of 1812-15 postponed the question for a time, and it is not until 1817 that it comes up again. The Crown revenues of Lower Canada of themselves were still insufficient. The war office objected to more expenditure for civil purposes in the colonies. The governor, therefore, turned to the legislature and asked them to make good their offer of 1810, and to supply the deficiency by a grant from the provincial revenues. The legislature complied, but upon the demand of a much larger sum the following year, before consenting to vote the supplies they insisted upon receiving from the executive a satisfactory account of the expenditure not only of the Provincial but also of the Crown revenues.

It would seem that the governor was in an awkward position. The Crown revenues were insufficient, and the Legislature would not vote more unless the whole budget was handed over to it. But on the other hand, the Crown revenues formed

a sufficiently large part of the whole budget to support the more important items in the expenses of civil government, the salaries of the executive and the judiciary; and if the Legislature cut off the supplies they would be depriving their constituents of roads and bridges, and the lucrative employment incidental to their construction. The Legislative Council could be depended on to throw out any supply bill which provided for the constituents without providing for the executive, or for reducing the permanent appropriations already made. The two parties to the contest engaged in much legal fencing and quibbling. If the assembly voted a lump sum 'out of all the revenues arising in the Province,' the Council would reject the bill as "assuming a control over the revenues of the Crown." If they voted a sum without specifying the source from which it was to be drawn, the governor assumed that it was granted out of Provincial revenues, and would thank them for their liberal supply in aid of funds "already appropriated by law." In any case the governor could get along somehow with the Crown revenues alone, or if he were bold enough, could appropriate the Provincial revenues without any authority at all.

But at last the protests of the assembly became so loud that they obtained a hearing in England. The first point in dispute was the question of control over the duties levied under the Act of 1774. This was previous to the Declaratory Act, in which England renounced the right of taxing the colonists for revenue purposes. But this latter act had not

repealed the earlier one under which the duties were at the disposal of the Lords of the Treasury. Yet the colonists ventured to dispute their legal authority to exercise such control, and by resolution of the Lower Canadian Assembly in 1826, it was declared "that the statute of 18 Geo. III. c. 12, had not conferred any new rights upon the inhabitants of the British Colonies, but is a declaratory act, the enactments whereof recognize and consecrate the constitutional maxim, that the colonies having a representation, have an inalienable right not to be taxed without the consent of their representatives, and that to the Legislature alone appertains the right of distributing all moneys received in the colonies."

But the Law Officers of the Crown in England gave it as their opinion that neither the Act of 1778 nor the Constitutional Act of 1791 had worked a repeal of the Act of 1774 and that "these duties having been imposed by Parliament at a time when it was competent for Parliament to impose them they cannot be repealed or the appropriation of them in any way varied except by the same authority." The colonists no doubt were legally in the wrong, but the strength of their case lay in their argument that it was at any rate contrary to the intention and spirit of the Declaratory Act that these duties should not be placed under the control of the Provincial Legislature and that "even supposing that they had no right to interfere yet when those revenues were not sufficient they had a right to attach to sup-

plementary grants any conditions and limitations (*i.e.*, as to the appropriation of the Crown Revenues) which the interest of the country appeared to them to require."

The justice of their claim was recognized in 1828 by the committee of Parliament on Canadian affairs. After some negotiation with the Legislatures for a permanent provision in return in aid of the still unsurrendered revenues, the British Parliament in 1832 passed an Act handing over the Crown duties amounting for both provinces to about £44,000 to Provincial control. The Lower Canadians accepted the concession without making any return; but in Upper Canada where the struggle had been less bitter and less complicated with other issues a small permanent grant was provided for. Thus in regard to the Crown duties under the Act of 1774 the assemblies had come off victorious and the struggle entered on the second stage.

The only funds now remaining at the disposal of the governor were the hereditary, or casual and territorial, revenues of the Crown. In Lower Canada these accrued from the rent of the king's posts, the rent of the forges of St. Maurice, the *quint*, the *lods et ventes*, the timber licenses, the Seigniory of Lauzon and the Jesuits' estates; in Upper Canada from timber licenses, the crown land reserves, fines, etc.; in Nova Scotia from quit rents, fees and royalties on mines, and from similar sources in New Brunswick. In addition to this the policy of free grants of

Crown lands had been given up in 1826 and the policy of sale adopted. In Upper Canada a tract of 2,000,000 acres was sold to the Canada Company for an annual payment of £20,000 for seventeen years. In Lower Canada the British American Land Company received a smaller tract, while a company for similar purposes was organized in New Brunswick and Nova Scotia.

Over these casual and territorial revenues the Houses of Assembly now wished to obtain control. The view which the Imperial Government took of the matter may be seen from the words of the message in 1831, in which the crown duties were surrendered. "These revenues stand upon a different footing from taxes properly so called. They are enjoyed by the Crown by virtue of the royal prerogative, and are neither more nor less than the proceeds of landed property which legally and constitutionally belongs to the sovereign upon the throne;" and still more plainly by the words of Charles Buller in his report on the Crown lands of Canada in 1838:—"The waste lands of the colonies are the property not merely of the colony but of the empire, and ought to be administered for imperial not merely for colonial purposes." But the colonists took a different view of the matter. They looked upon themselves as a political society having corporate rights of property in the public domain which was not yet granted to individual owners. In 1835, the assembly of Lower Canada declared by address to His Majesty "that your petitioners have reason to believe that your

Majesty's Government have sold to the individuals aforesaid (the British American Land Company) extensive tracts of land *belonging to this Province* and thereby have taxed this colony contrary to the most important and indisputable rights of British subjects." In the same year the assembly of Upper Canada claimed that "the Declaratory Act of 1778 was a pledge from the British nation, that the B. N. A. Provinces with the reservation only of commercial restrictions might impose their own taxes and direct the appropriation of them. The danger and mischief are just as great whether the uncontrolled expenditure of such moneys is derived from the sale of public lands or direct taxation." They argued that the constitutional Act of 1791 by reserving one-seventh of the public lands of the Province to be disposed of by the Crown implied a surrender of the other six-sevenths to be disposed of by the Legislature of the Province. Resolutions to the same purport were passed in Nova Scotia Assembly under the leadership of Joseph Howe.

In this question of the hereditary revenues of the Crown as in the case of the Crown Duties already discussed, the colonists were legally in the wrong. The public lands were at law undoubtedly the property of the Sovereign. The real question was of a political nature, viz., whether the King or his Representative in his administration of these lands should be guided by the advice of a ministry responsible to the British Parliament or by one responsible to the Provincial Legislature. Indeed,

the relation between the British Government and the Legislatures of the colonies was in this matter strictly analogous to the relation existing in England in regard to the hereditary revenues between the King and the Parliament. At the accession of each Sovereign these revenues are surrendered to the public use in return for a permanent provision, known as the Civil List, for the support of the royal household and the leading officers of the executive and judiciary. Before surrendering the hereditary revenues of the Crown arising in the colonies, the British Government wished to make a similar arrangement for the support of a colonial Civil List. But the requests were generally refused as too exorbitant, and nothing was done until the settlement of the constitution of the Canadas in 1840. By the Union Act the casual and territorial revenues were to be paid into the Consolidated Revenue Fund of the united province, but upon three very important conditions.

1. That money votes should originate in the executive. Thus one of the most important features of the system of cabinet government was introduced as a condition to the surrender of the territorial revenues.

2. That the control should not extend to the gross revenues but only to the net.

3. That the Legislature should guarantee a fixed and somewhat large appropriation for the support of a civil list.

These provisions were for Upper and Lower Canada incorporated into the Union Act of 1840. It was with some reluctance, and only after some

modifications, that they were accepted by the Lower Provinces.

3. A third step was therefore still to be taken before the provinces could be said to enjoy free control of the public revenues. The entire territorial revenues must be handed over to the officers of the Legislature and the permanent appropriation of £75,000 a year made by the Union Act must be repealed and made to rest solely upon provincial enactment. Almost immediately after the Union the Civil List was brought up for discussion. In 1843 the Assembly of Canada passed a series of resolutions declaring "1. That no appropriation of public money ought to be made without the consent of the Assembly. 2. That the appropriation of £75,000 by the Union Act for the administration of justice and the support of government, however expedient it may have been under the peculiar circumstances of the Canadas at the time of the passing of the Act, is unsatisfactory to the people of this province as tending to create abuses in the misapplication of public moneys. 3. That the repeal of that appropriation would tend to produce contentment and cement the union with the parent state. 5. That the existing charges upon the Civil List are generally exorbitant and ought to be reduced. 6. That this house is prepared to make a suitable provision for the Civil List upon the repeal of the appropriation made by the Union Act." By an Act in the year 1846 the Canadian Parliament made a permanent provision for the support of the Governor and the Judiciary and a provision during the life and

five years thereafter for the salaries of executive officers, pensions etc., "provided always that the same shall be accepted and taken by Her Majesty by way of a Civil List instead of all territorial and other revenues arising in these provinces now at the disposal of the Crown." These gross revenues were to be paid over to the Consolidated Fund of the Province and the Act was to take effect only upon the repeal by the British Parliament of the appropriation clauses of the Union Act. The British Parliament accepted the offer; and the usual bargain, the transfer of hereditary revenues, in return for a permanent Civil List, which is made in Britain between the Parliament and each Sovereign upon ascending the throne, took in this case the form of a compact between the Canadian Legislature and the British Parliament in the Imperial Act of 1847 meeting and confirming the Provincial Act of the previous year.

In the Maritime Provinces the development was somewhat similar. Though in these Provinces the revenues arising under acts passed prior to 18 Geo. III. were not very large, and the different stages of the dispute are not so sharply defined, the nature of the struggle was the same, and the conditions attached to the surrender of the revenues were the same, as was also the final solution. It would seem also that many of the distinctive features of the histories of these provinces can best be explained from the point of view suggested by a close comparison of the Crown and the Provincial Revenues.

IV.

Customs Duties.

In the present essay we shall try to indicate something of the part played by customs duties in the revenue systems of the provinces and see whether this brings any little light to the reading of their political and financial history.

The most noteworthy features of the tax systems of the provinces before confederation as compared with those of the Commonwealths of the United States are the prominence of the part assigned to customs and the absence of the general property tax. The reasons for this, perhaps, are partly political and partly economic.

The provincial governments retained the power to levy customs duties, surrendered by the States in 1789, until their confederation almost a century later. Their relations with England also freed them from the necessity of incurring any large national expenditures for defence. Thus it was possible for them to meet their small ordinary expenses by levying duties on imports, supplemented by excise and minor duties and the revenues arising from the public lands.

Even if a direct tax on property had been levied for provincial purposes there was no adequate local machinery in the then feebly organized municipalities to collect it.

Lord Durham complained in 1838 that it was impossible to find a county officer, even to arrest a criminal at the command of the Executive Government. Besides, owing to the peaceful conditions of the early settlements and to the land policy of the government, the settlers were so widely scattered that it would have been difficult even for a strong executive with a sufficient machinery to administer a general property tax, and the early executives in he provinces were not strong.

To these reasons may perhaps be added the economic. The lands were only partly cleared previous to 1840, and of little value, money was scarce, there was little accumulated wealth of any kind, and consequently no basis for a productive general property tax. Under these circumstances it is not surprising that the preference was given to Customs duties which were fairly easy to collect and were paid without protest, and on the whole perhaps pressed pretty evenly on a people in this stage of economic development.

Up to Confederation then, customs duties were the mainstay in the Provincial revenue systems as they have been in the Dominion system since that time. There were other revenues, and in Canada very important ones, arising from excise duties on tobacco and spirits, public lands, and an impost on banks, but little will be lost by omitting these and confining ourselves to the central feature of the systems—the customs.

These customs duties are to be divided into two classes:—1. The Imperial duties levied under the acts passed by the English Parliament for the regulation of trade, and 2. Provincial duties levied under the revenue acts passed by the Legislatures of the Provinces. The small revenues arising under acts of the first class were expended under the authority of the English Lords of the Treasury, and ordinarily in the support of the Imperial customs establishments in the colonies. The proceeds of the second were under the control of the Legislatures of the Provinces.

Imperial Duties.—Of the earlier Acts, the most important was the Quebec Revenue Act, passed in 1774, "to establish a fund towards further defraying the charges of the administration of justice, and the support of the civil government within the Province of Quebec." It imposed 3d. a gallon on British spirits, 9d. on British colonial spirits, and 1s. on foreign spirits, 3d. on molasses imported in British or Quebec ships, and 6d. on molasses imported in ships belonging to the colonies. A duty of £1. 16s. was also levied on licenses for keeping a house of public entertainment.

The annual proceeds of this act amounting to £3,771 in 1792, and £52,040 in 1833, were handed over to the Provincial Legislatures of Upper and Lower Canada in 1831, and the transfer was sanctioned by an act of 1832. The Quebec Revenue Act has some importance in constitutional history, because

it was over the revenues arising under it that the first disputes between the Houses of Assembly and the Governors arose, and as the act is a revenue act and levies internal as well as external duties, it throws some light on the constitutional relations between England and her colonies. After the passing of the Declaratory Act, however, with the exception perhaps of the Canada Trade Act, all the acts of the British Parliament under which duties were levied in the Provinces were acts passed primarily for the regulation of trade in the interests of British commerce and British manufactures, and the provincial revenues arising therefrom were merely incidental to their general protective policy.

Although for the most part incidental, the revenues arising under Imperial Acts were still very considerable, varying from one-fifth to three-fifths of the whole Customs revenue, and to this extent the revenue systems of the Provinces were not under their own control.

The discrimination against importations from foreign countries was not very great, varying generally in the ad valorem duties from 5 to 15%, and it would seem that the colonists received a sufficient counterpoise in the discriminations in the English tariffs in favor of colonial products, particularly timber and grain. The Imperial duties, however, and the restrictions on trade met with a good deal of criticism in the colonies, particularly in 1835, and although a good deal of anxiety was felt when England adopted

free trade, a resolution in the Canadian House of Assembly in the session of 1847, "That the abandonment of the protective policy of England towards her colonies cannot operate otherwise than injuriously on the trade and commerce thereof without affording a corresponding benefit to our fellow subjects of Great Britain," was lost.

By the introduction of Free Trade in 1846, and the great relaxation in the Navigation Laws in 1848, the imperial protective system was broken up, colonial products were placed on the same footing as articles of foreign production in English tariffs, and the Provinces were given control of their own tariffs and were allowed to remove the discriminations in favor of the English manufacturers, the Imperial custom house officials were withdrawn and the colonies were given largely increased powers in the regulation of navigation.

But it was no part of England's plan that the colonies should take up the policy of protection which she was abandoning and for the next ten years we find recently converted England trying to bring the colonists over to the new faith. Although she was surrendering the advantage which her manufactures had enjoyed in the markets of the colonies, she was by no means willing that they should be placed at an absolute disadvantage under the colonial tariffs which began to appear after 1846. In a dispatch of March 13, 1848, Lord Grey writes, "Her Majesty's Government readily acknowledges

the propriety of leaving to the colonists the task of raising the revenue which they may require by such methods of taxation as may seem expedient—but if any of the duties comprised in the tariff have been imposed not for purposes of revenue but with a view to protecting the interest of the Canadian manufacturer, Her Majesty's Government are clearly of the opinion that such a course is injurious alike to the interests of the mother country and to those of the colony," and the Canadian tariff was modified accordingly to meet the objections of the Colonial office.

When, however, the financial difficulties of the years 1857 and 1858 had caused the Canadian finance ministers to propose an increase of duties in the tariffs of 1858 and 1859, and the Duke of Newcastle in the Colonial office, on the petition of the Sheffield manufacturers, protested against the protective features of this legislation and mentioned the possibility of disallowance, a somewhat spirited reply in defence of his policy was called forth from Sir A. T. Galt. "The government of Canada cannot," he said, "in any manner waive or diminish the right of the people of Canada to decide for themselves both as to the mode and extent to which taxation shall be imposed," and in this view the British government seem to have acquiesced.

The Difficulties of Upper Canada in Collecting her Revenue.—When the Province of Quebec was divided into the provinces of Upper and Lower

Canada in 1791, the act of 14 Geo. III., levying duties on liquors, sugar and molasses to the amount of about £10,000 a year, was still in force, and the legislatures of both parliaments in their first session levied small duties on spirits in order to pay the incidental expenses of the legislature. But as Upper Canada had no seaport, and as owing to the great extent of her border it was thought to be impossible to collect the duties and to prevent frauds on the revenue, an agreement with the lower province was entered into by which "The legislature of Upper Canada should not impose any duties upon goods imported into Lower Canada and passing into the upper country, but should allow the legislature of Lower Canada to impose such reasonable duties on such goods as they might judge expedient for the purpose of raising a revenue for the province of Lower Canada, and that of the net produce of these duties Upper Canada should receive one-eighth, the other seven-eighths remaining for the use of Lower Canada." In one form or another this customs pool was continued till the union of the two provinces in 1841. A new agreement was concluded in 1797 under which an attempt was made to ascertain the actual consumption of Upper Canada, and the amount of drawbacks due by stationing an inspector, at Coteau du Lac, to report all dutiable goods passing from the lower province up the St. Lawrence. Before 1817 difficulties had arisen. The Legislature of Lower Canada had levied new duties without reporting the fact to the inspector,

and also goods were beginning to find their way into Upper Canada by different routes.

The commissioners of the province then went back to the original plan, and after estimating the population and probable consumption of the two provinces, decided that Upper Canada should in future receive one-fifth of all duties levied by Lower Canada on goods imported by sea. This agreement terminated in 1819. By this time differences had arisen between the Governor of Lower Canada and his House of Assembly and the Legislatures neglected to provide in the sessions of 1819 and 1820 either for the appointment of new commissioners or for the payment to Upper Canada of her share of the revenue, so that four-fifths of the entire revenue of that province was thus locked up. When commissioners were at last appointed it was found that those from Lower Canada had no power to treat concerning the claims to Upper Canada for arrears arising under the agreement of 1797, and no decision could be arrived at. Upper Canada's representatives pointed out that that the just claims of their province to a part of the duties had been neglected, that the Treasury was empty and her officials serving without pay. Lower Canada replied that "these things must be when one province is dependent on another for the collection of its revenue." Upper Canada accepted the situation and did the only thing possible under the circumstances—appealed to England and succeeded in securing the passage of the Canada Trade Act by which it was made impossible for

Lower Canada to alter existing duties except with the consent of Upper Canada or the Imperial Parliament and by which a machinery was provided for the apportionment of the revenues arising from Customs.

This solved the question for the time; but it turned out that revenues which were sufficient for Lower Canada were quite inadequate for the more progressive Upper Province. Before 1840 by building the Welland Canal, the Cornwall Canal, and numerous public roads, bridges and harbors, Upper Canada had incurred a debt of over a million pounds, and the whole revenue of £60,000 was hardly adequate to pay the interest. Unwilling to resort to direct taxation, and unable, as she professed herself, to administer an independent system of indirect taxation, Upper Canada had a distinct financial interest in the union of the two Provinces in 1841, by which the debt of the Upper Province was assumed by the united Province of Canada, and the revenues combined into a Consolidated Fund. A part also of the hostility of Quebec to the Act of Union may be ascribed to a very natural objection to assuming debts which she had not incurred.

Another result may perhaps be ascribed to the situation of Upper Canada in regard to the collection of her customs revenue. As we have seen, Upper Canada was dependent for the greater part of her revenues upon duties levied under imperial acts or by Lower Canada, and though these were insufficient they could not be increased. Upper

Canada was on that account unable to build the main roads by provincial grants as was done in Nova Scotia and New Brunswick. The governments of the municipalities on the other hand, administered by irresponsible boards of justices of the peace were unable to undertake the burden. To fill up the gap then between a weak provincial revenue system and a weak municipal system all sorts of bridge companies, harbor companies, toll gate companies, and boards of road trustees, were introduced to undertake the public works. Under this policy the country was dotted with toll-gates and incurred a debt of £300,000 without receiving very much benefit from the expenditure. Finally Upper Canada was obliged to strengthen the government of the municipalities and to transfer to them the burden of maintaining local public works. Apart from this it would seem to be hard to account for the earlier and more vigorous growth of municipal institutions in that Province, and the strong and rapid rooting of municipal direct taxation.

It would seem then that the situation of Upper Canada in regard to the collection of her customs revenue has furnished a reason for the proposed union of the provinces in 1822, the repeated proposals for the annexation of Montreal, the union of 1841, and finally, since it was impossible to go backward, the larger union of 1867, for which Ontario and Quebec had had some preliminary training in the shape of a long drill in the management of a customs pool. It also seems to afford a partial

explanation for some peculiar features in the history of that province.

Provincial Tariffs.—Beginning with the Union, the Parliament of the united Canadas by an Act of 18th September, 1841, levied specific duties on wine, spirits, sugar, coffee, tea, molasses, salt and tobacco and an ad valorem duty of 5% on general merchandise. These duties, although they show a considerable increase on those previously levied, were still very small, amounting to 10¼% of the value of the total imports. In 1843 duties on agricultural produce and live stock were added, notably a duty of 3 shillings a quarter on wheat as a condition of obtaining a discrimination in favour of Canadian wheat in the English tariff. On May 17th, 1845, a general Act was passed extending the specifics but retaining the 5% ad valorem for the unenumeraated articles. In the next year a discrimination in favor of leather and leather manufactures imported by sea was introduced.

But no very important change was made until the change in the policy of England. Under the authority of the Imperial Act, the Imperial duties were abolished and the 5% unenumerated list was raised to 12½%, the specific duties increased, and a 2½% list, including untanned leather and bar iron, added.

The Act of 22nd April, 1853, reduced the duty on sugar and molasses, repealed the duties on salt, levied a uniform duty of 6% per gallon and 30% ad. val., on wines, and shortened the 2½% list,

leaving the 12½% list, from which the greater part of the revenue was derived, untouched. Under the pressure of increasing expenses on May 16th, 1856, the 12½ per cents were raised to 15%, leather and india rubber manufactures were raised to 20% and a 5% list was added.

The depression of the year 1857 was marked by a great decrease in the revenue, and to meet the deficit the number of enumerated articles under specific duties was very much increased by the tariff of 1858; a duty of 15% was levied on the unenumerated goods, 20% on a large list of manufactured goods, including woollens and agricultural implements, 25% on leather, boots and shoes, harness, saddlery and clothing, and 5% on a list of raw materials and half-manufactured articles. This was the most notable advance in the direction of protection. The changes were chiefly due, however, to the need for larger revenues. In 1859 a still further increase was rendered necessary by the fact that the interest on an indirect public debt of $7,630,643 became a charge upon the revenue in 1858, consequently the specific duties were done away with and ad valorem duties were levied of 100% on spirits, 30 to 40% on wines, tobaccos, cigars and spices, 15 to 30% on tea, sugar and molasses, 15% on leather and partially manufactured goods, 25% on goods manufactured from the 15 per cents and 20% on 41% of the imports paying 61% of the duties.

The duties levied under this act during the first

nine months of the year amounted to 13½% of the total value of the imports or 19% of the total value of the imports paying duty. The character of the measure may best be learned from a letter of the Finance Minister to the Colonial office, dated March 20th, 1859. "The policy of the present government in re-adjusting the tariff has been in the first place to obtain sufficient revenue for the public wants—but it will undoubtedly be a source of gratification to the government if they find that the duties absolutely required to meet their engagements should incidentally benefit and encourage the production in the country of many of these articles which we now import. But the government has no expectation that the moderate duties imposed by Canada can produce any considerable development of manufacturing industry."

The next important Tariff Act was that of 1866, passed with a view to assimilate the Tariff of Canada to that of the maritime provinces before entering confederation. The 25 per cents. and the 20 per cents. were combined in a 15% list, so that what may be called the 20% Tariff of 1859 became a 15% Tariff in 1866.

From this slight sketch of tariff changes in Canada between 1840 and 1867 it may be gathered that previous to 1840 provincial duties were levied for revenne purposes only, chiefly on liquors, tea, sugar, molasses etc., that between 1847 and 1859 the increasing expenses of the country caused an

increase in the duty on unenumerated articles from 5% to 20%, with a corresponding increase in the amount of incidental protection afforded, and that the lowering of the duties in 1866 was due to a desire to bring them nearer the 12½ per cent. level of the maritime provinces.

In the maritime provinces a somewhat similar development took place. There, as in Canada, from three-fifths to four-fifths of the provincial revenue was derived from customs duties and increased expenditures were met by raising the tariff schedules. The chief points of differences are that the early tariffs of the maritime provinces show much more frequent discriminations in favor of English products than those of Upper and Lower Canada, that the principle of protection received only a very slight recognition in the maritime provinces between 1846 and 1867, and that although on account of the greater consumption of foreign products, the amounts of the duties paid were generally higher per head, the duties themselves scaled from 5 to 10% lower than those of Canada, and that until the period of railway building the revenues arising under them seem to have been quite sufficient for all provincial expenses.

V.

Direct Taxation.*

Up to Confederation then the Provinces did not find it necessary to resort to direct taxation to any great extent. There seems to have been some general property taxes for provincial purposes in Nova Scotia before 1800. Between 1758 and 1774, indeed, it seemed as if Nova Scotia was about to develop a system of direct taxation to supplement the revenues arising from customs, but the general property tax never became anything more than an emergency impost, and with the general property taxes in Ontario for the support of a lunatic asylum and for a jury fund, the direct taxes in Prince Edward Island, direct taxes for the support of education, and some scattered and unimportant taxes on expenditure, may be set down as exceptional.

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* Apart from the legislation on the subject (Library of the New York Bar Association, or the Library of Parliament, Ottawa), the sources of information are:

The Ontario Township, J. M. McEvoy; Toronto, 1889.

The Reports of the Commissioners on Municipal Institutions in Ontario; Toronto, 1888 and 1889.

The Report of the Commission on Municipal Taxation in Ontario; Toronto, 1893.

The Reports of the Bureau of Industries for Ontario on Municipal Statistics in 1889 and 1894.

Municipal Statistics, Quebec, 1893.

The Municipal Returns in the Journals of the Legislatures and the Sessional Papers.

The Annual Reports of the City Treasurers.

Except for the cities, the statistics for Quebec are very imperfect, and there appear to be no returns for the counties of the Maritime Provinces.

Before 1867, the Provinces having revenues from customs excise and crown lands, were not obliged to levy direct taxes, and since that time they have found Dominion subsidies, crown lands, and license duties suffice, and have left the general property tax to the municipalities. At the present time, therefore, when some of the American commonwealths are finding the general property tax unsatisfactory as a state tax, and are beginning to leave the taxation of real estate to the municipalities, it might seem helpful to draw a comparison between such systems and those of the Provinces where the general property tax has never figured as a provincial tax.

But though there is a strong resemblance between the national and municipal tax systems of Canada, and the corresponding systems of the United States, the Provincial and State systems furnish very few real grounds for comparison. Political conditions have been so different, and customs duties and subsidies absent in one case have played such an important part on the other, that though the systems are beginning to have a few features in common, there is really, perhaps, no resemblance at all between them.

The history of the administration of the direct taxes in the municipalities shows two periods; the period of government by quarter sessions and the period of government by county and township councils, or the period of irresponsible and that of responsible local government. Roughly, the dates of division are 1841, 1845, 1877 and 1879 for Ontario,

Quebec, New Brunswick and Nova Scotia and these years mark the beginning, perhaps, of any really vigorous growth of local taxation and municipal life.

The maritime provinces were divided into counties and these sub-divided into townships in Nova Scotia, and parishes in New Brunswick. Upper and Lower Canada were divided into districts, counties and townships. In the first case the county and in the second the district was selected as the unit of local government. Within these areas the justices of the peace, in quarter sessions assembled, levied county and township rates for the maintenance and repairs of the court house and gaol, the support of prisoners, the expenses of holding court and the relief of the poor, issued tavern licenses, passed police regulations and looked after the public health, and to some extent provided for the maintenance and repairs of roads and bridges.

In New Brunswick and Nova Scotia the overseers of the poor for each township made an annual presentment of the moneys required for the support of the poor, and the amount was levied on the township by the authority of the court of quarter sessions, in the same way as the rates for the county. When the care of the poor was transferred to the county, the rate became a county rate. There seems to have been no similar rates for the poor in Upper Canada before 1837.

For the county rates the grand jury of the Maritime Provinces made presentment of such sums as

were required for building and repairing court houses or gaols and other county purposes, and the tax was levied by the court of quarter sessions. If the grand jury neglected to make presentment, and in Upper and Lower Canada in the first instance, the justices in quarter sessions were empowered to amerce the county.

Under this system of irresponsible local government, taxation was never developed to any great extent. Somehow or other the Canadian squire did not thrive like his sturdier English prototype. Appointed by an irresponsible and unpopular executive, he frequently lacked the qualifications for public office, and often came to be regarded as the incompetent agent of a more or less incompetent executive. But apart from this, he himself was not responsible to the people, nor to the people's representatives, and it was quite natural that he should not be entrusted with the collection and expenditure of the sums necessary for large improvements. "The people desired large improvements, but they would not entrust the magistrates with the sums necessary for doing the work."

The maximum rate was generally fixed at a penny in the pound. The gross amount of all local taxes in Upper Canada in 1811, was £4,133; in 1825, £10,235, or about 30 cents per head on the population; and in 1847, under the District Councils, £86,058, or about 40 cents per head. Or better, the amount raised by direct taxation on the whole

Province in 1840 was less than one-sixtieth part of the amount levied in 1892, or about equal to the amount levied in that year on the city of Toronto alone.

Where municipal government was so weak the Legislatures were obliged to assume local burdens and to build and maintain these roads and bridges which could not be left to statute labour. This practice obtained in New Brunswick and Nova Scotia even up to Confederation.

Between 1804 and 1831, the Legislature of Upper Canada voted about £100,000 to be expended by commissioners on roads and bridges. In 1829 a new policy was entered upon and the incorporation of toll gate companies, bridge and harbor companies, boards of road trustees and boards of road commissioners begins.

Dependent for her customs revenue upon the tariff legislation of Lower Canada and the Imperial Parliament, Upper Canada is found making this attempt to raise from the public works the cost of their own construction. The private companies were authorized to build roads and bridges and to remunerate themselves from the tolls collected, the boards to act as trustees or agents for the expenditures of money borrowed on provincial credit or on the security of the tolls, and to farm out the gates. Many of these companies and boards were created every year, and the acts of incorporation form the most important feature of the legislation of the

province in the decade after 1829. They form, too, the most important commentary on the inefficiency of the municipal institutions, and the weakness of the revenue system of the province at that time.

The larger towns were the first to break away from the government by justices in quarter sessions. St. Johns, N.B., indeed, had never been under their control. It had received its charter and the privilege of electing aldermen in 1785, the freeman swearing a queer old oath "that he would be found contributing to all manner of charges within the city; as summons, watches, contributions, taxes, tallages, lot and scot, and all other charges, and in all bearing his part as a freeman ought to do."

The cities of Quebec and Montreal were incorporated in 1831, Toronto in 1834, Halifax in 1841. Boards of police were established in Brockville in 1832, Port Hope, Belleville, Prescott and Cornwall in 1834, Cobourg and Picton in 1837. In 1840 the Provisional Government established district councils in the Province of Quebec, and immediately after the union they were organized in Upper Canada. By the act of 1849 the present system, or the township-county system in all its essential features was introduced into Upper Canada, and practically completed the development for that Province so far as organization is concerned. The counties of New Brunswick were incorporated and received representative councils between 1851 and 1877, and the counties of Nova Scotia between 1855 and 1879.

These changes in the system of local government, which are perhaps not unlike the change from unconstitutional to constitutional rule, have been accompanied in all cases by a strong development of municipal taxation. The amount of local taxes levied in Ontario, which was £10,235 in 1825, and £84,137 in 1846, had become $10,897,485 in 1891. The rate per head which was about 40 cents in 1840 had risen to $4.17 in the townships, $5.82 in the towns and incorporated villages, and $12.36 in the cities in 1892. And the rate which was a penny in the pound in 1847, was 10 mills on the dollar in rural municipalities, 19½ mills in towns, villages and cities, or 14⅓ over all in 1892.

The system seems to have worked fairly well. The commissioners on municipal institutions in their report of 1888, say soberly enough, "In the course of our investigation of the Ontario system, we are forced to the conclusion that that system is now one of the best in the world," and there are few outside complaints. A good local machinery has been created, and in most cases it has been placed in the hands of thoroughly competent and careful men, and the results in the counties and townships have not led the commissioners to look forward to any important change.

The Assessment Acts.—The first act for levying and collecting local assessments in Upper Canada was passed in 1793. Under it the population was

divided for purposes of assessment into eight classes, according to the value of their property. In the first class were placed those persons possessing real and personal property ranging in value from £50 to £100, and in the highest class those persons possessed of property valued at over £400. The normal rate was fixed at 2s. 6d. per £50. The Act was amended in 1794 by the addition of two more classes to the top of the scale. In 1795 an Act was passed defining ratable property and fixing a uniform valuation for each description of property comprised in the "Grand List." By 59 Geo. III., c. 7, it was enacted that:

"The following property, real and personal, shall be deemed ratable property and be rated at the rate and valuation therein set forth, that is to say: every acre of arable or pasture or meadow land, 20s.; every acre of uncultivated land, 4s.; every town lot situated in the towns hereinafter mentioned, to wit: York, Kingston, Niagara and Queenstown, £50, Cornwall, Sandwich, Johnstown and Belleville £25 . . . every house built with timber squared or hewed on two sides, one storey in height and not two storeys, with not more than two fire-places, £20; for every additional fire-place, £4; every dwelling-house built of squared or flaked timber on two sides, of two storeys in height, with not more than two fire-places, £30; and for every additional fire-place, £8; every framed house under two storeys in height, with not more than two fire-places, £35; and for every additional fire-place, £5; every brick or stone house of one storey in height and not more than two fire-places, £40; and for every additional fire-place, £10; every brick or stone house of one storey in height and not more than two fire-places, £40; and for every additional fire-place, £10; every frame, brick or stone house of two storeys in height and not more than two fire-places, £60; and for every additional fire-place, £10; every grist-mill wrought by water with

one pair of stones, £150; every additional pair, £50; every saw-mill, £100; every merchant's shop, £200; every storehouse owned and occupied for forwarding goods, wares or merchandise for hire or gain, £199; every horse of the age of four years and upwards per head, £4; milch cows, per head, £3; horned cattle from the age of two to four years, 20s.; every close carriage with four wheels kept for pleasure only, £25; every cariole, gig or other carriage with two wheels kept for pleasure only, £20; every wagon kept for pleasure only, £15."

All this sounds quaint enough but it gives a fairly good picture of the economic and social condition of the people for whom it was intended, and the fact that "the grand list" figured in Upper Canadian assessments for over half a century under a representative House of Assembly, goes to show that it must have served its purpose fairly well. Looking at it to-day, there seems to be only this one good feature in the tax, viz., that while the value of uncultivated land was very much greater than its assessed value, that of cultivated land showed a still greater excess, and this tended to discourage speculation in wild lands. In other respects the tax seems crude enough. In 1850 Ontario adopted the general property tax, and with the addition of certain incomes "real and personal property appraised at its actual cash value," is still made the basis for all county, township, city, town and village rates.

Nova Scotia received a representative House of Assembly in 1758. By 3 and 4 Geo. III. c. vii., it was enacted that:

"The freeholders of any township where there are 50 or more families . . . . shall choose 12 inhabitants of the said township, who are hereby empowered to assess the inhabitants of the said township for such sum as shall be granted by the said freeholders for the relief of the poor . . . . in just and equal proportion, as near as may be, for the moneys voted as aforesaid, and *each person being assessed according to his known estate, either real or personal,* for the purpose aforesaid."

So that from the first Nova Scotia has had the general property tax for her township tax. The county rate was levied for a few years "in the justest manner which the justices may devise," but it soon was brought to a general property basis, where it remains to-day.

In New Brunswick between 1784 and 1837, the assessors were allowed to assess property "in the justest measure they can devise," and the result was that the taxes were levied in many different ways. In 1837, a law was passed by which one-eighth of the taxes was to be raised as a poll tax, and the balance was derived from a tax on real and personal estate and income, real and personal property being assessed at 20 per cent. of their value, while income was entered at its full amount. But irregularities crept in and the income tax became something of a farce, and in 1875 it was decided that property should be assessed at its actual value. This gave New Brunswick the general property tax, supplemented by an income tax and a capitation tax.

The assessment act of 1888 enacts:

"That for all purposes for which local and direct taxes may be levied, all land and all such personal property and income as is

defined in the Act shall be liable to taxation," and that "one-fourth, and no more, of all local and direct taxes shall be levied and assessed by an equal rate as a poll tax on all male persons living within the district and the other three-fourths shall be assessed upon real and personal property and income."

The assessment acts of Manitoba and British Columbia present some distinctive features. In Manitoba (R. S., 1890, s. 24) all lands in municipalities improved for farming or gardening purposes are assessed at their unimproved value, and under the act of April 20th, 1892, live stock and farming implements to the value of $1500 are exempt from taxation. In British Columbia there are differences in the rate imposed on real estate and personal estate, wild lands and improved lands, property and income, and under the Act of 1892 the municipalities are not allowed to assess improvements at more than one-half their real value.

In the cities the general property tax, supplemented in some cases by income and capitation taxes, still holds. There are, however, three important exceptions. In 1892 the revenues of the city of Quebec were derived from a tax of 75% on the assessed value, or 15% of the rental value, of real estate, a business tax of 12½% upon the rental value of business premises, a corporation tax, and a capitation tax of $2 per head. Neither personal property nor income was taxed.

In 1892, 56% of the revenues of the city of Montreal were derived from an assessment of 1% for municipal purposes, and two-tenths % for school purposes

on the assessed value of the city real estate, 10% from a business tax of 7½% on the rental value of business premises, 25% from water rates of 7½% on the assessed values of occupied houses, and 9% from markets, police licenses, the recorder's court, and miscellaneous sources, and these proportions have been roughly maintained ever since 1880. No attempt is made to tax personal property or income.

In Winnipeg, too, under an Act of the Manitoba Legislature, passed March 11th, 1893, personal estate has been exempted from taxation, and business taxes and taxes on corporations provided for.

Following the line of development, then, of municipal taxation for Ontario, we find approximations to the general property tax in the class tax and the "grand list" tax, then a general property tax and finally a general property tax supplemented by an income tax. The tax systems of Winnipeg, Quebec and Montreal, on the other hand, show attempts to reach in other ways the personalty that is escaping from the assessment rolls and present possible lines of future development for the tax systems of the other cities.

VI.

The Financial Basis of Confederation.*

There is at least one clause in the British North America Act that seems to have had no friends. It reads :

> Sec. 118. The following sums shall be contributed by Canada to the several provinces for the support of their government and legislatures :
>
> Ontario, Eighty Thousand Dollars ;
> Quebec, Seventy Thousand Dollars ;
> Nova Scotia, Sixty Thousand Dollars ;
> New Brunswick, Fifty Thousand Dollars;
>
> and an annual grant in aid of each province shall be made equal to eighty cents per head of the population as ascertained by the census of 1861, and in the case of Nova Scotia and New Brunswick, by each subsequent decennial census until the population of each of these two provinces shall amount to 400,000 souls, at which rate such grant thereafter remains and such grants shall be in full settlement of all future demands on Canada."

Those who have written from the standpoint of political science, having the constitution of the United States in view, point out that it is desirable that the financial systems of the provinces should be entirely independent of the Dominion financial system. Those who take "provincial rights" as a starting point have shown that it does not secure absolute justice as between province and province, while those who look on the financial side of the question have thought that the system of provincial

* Gray's Confederation.
The Confederation Debates.

subsidies throws too great a burden upon Dominion customs' duties, a burden which could not be sustained in the event of an interruption of commerce or an unforseen increase in the expenditures of the Dominion. In other words, it is held to be dangerous to settle so heavy a fixed charge upon revenues so liable to fluctuation.

The present essay, sketching lightly the history of the financial arrangements of Confederation, may first perhaps be made to suggest an explanation of the origin of this clause, and to indicate the outlines of a relative justification on strictly Provincial grounds, and secondly, perhaps, to call up those circumstances which lead to the first readjustment of the original inter-provincial arrangement, and caused the question of Provincial subsidies to assume its present form.

The Act of Union by substituting a legislative union for a customs pool, and by settling her debt upon the consolidated fund of the united Province, had freed Upper Canada from the financial difficulties of 1839. The act, however, provided that Upper and Lower Canada should be represented in the Legislative Assembly by an equal number of members, and this arrangement could not be altered except by an impossible two-thirds vote in the assembly and the council. The more populous Province had always, therefore, a grievance.

Upper Canada seems to have remained quite satisfied with the arrangement for equal representation so long as her population was not equal to that

of the Lower Province and the balance was in her favor, but when the increase in immigration after the year 1845 had carried her population considerably in advance of her yoke-mate the burden of complaint was shifed. From this time forward "Representation by population" came to be the motto of the majority of the members from Canada West.

This means of course that they believed that their part of the Province was not getting its fair share in the division of the revenues, and that the local burdens of Canada East were being allowed to press too heavily on the central government. As this feeling grew stronger, party divisions became more and more sectional, until nearly the whole western contingent came to be massed against the substantially solid vote of the east. In such a state of affairs it was impossible for any administration to secure a permanent working majority, and government was rapidly becoming impossible.

Though an advance upon the previous arrangement, the Union had been unfair from the first, and from being unfair was becoming unworkable and something had to be done. And, just as in 1839 Upper Canada had acquiesced in the Union because it promised to free her from difficulties in connection with the collection of revenues, so after 1858, she began to look forward to another political change, by which she might secure a fair share in their distribution. To this extent, the movement for Con-

federation may be said to have proceeded from Canada West. A new Union was eagerly sought when the old was no longer supportable; the yoke of the old pressed heavily, the burden of the new promised to be somewhat more evenly distributed. Whether or not, it would be possible under the terms of the new Union to secure absolute justice as between Province and Province, there was at least a chance that Canada West would obtain a considerable advance, and it was in this expectation, perhaps, that her representatives appeared at the Quebec Conference.

In determining the relations that should exist between the Dominion Government and the governments of the provinces and between the executives and the legislatures, the delegates from the different provinces at the Quebec Conference had a comparatively easy task. They kept in mind the constitution and history of the United States, and they drew from their own twenty years experience in the workings of Parliamentary Government.

The financial question, however, presented a real difficulty, arising partly from the prominence of the part that had been assigned to customs in provincial systems of revenue, and partly from the weakness of the municipalities and the feeble growth of direct taxation in the maritime provinces and Quebec. How were the expenses of the provincial governments to be met when the customs duties from

which they derived from three-fifths to four-fifths of entire revenues, had been transferred to the central government?

The representatives from Upper Canada having in mind the tax systems of the New England and middle States proposed that each province should be obliged to meet its own local expenditure by resorting to direct taxation. This meant the adoption of the general property tax as a provincial tax—an innovation even for Upper Canada, and out of the question for the other three provinces where the municipalities still leaned heavily on the provincial treasury, and direct taxation had been very slightly developed. So the plan by which the provinces would have been obliged to fall back on direct taxation and develop the general property tax as the States had done after 1789 was abandoned.

It was then proposed that the revenues to be raised by the Dominion by excise duties on tobacco and spirits should be re-conveyed to the uses of the province on which they were levied. By this arrangement it was hoped to retain a local basis and a measure of independence for the revenue systems of the provinces. In the Canadas the revenues arising from these sources were more than sufficient for the support of the provincial governments, but in the maritime provinces, where the people did not manufacture spirits to any great extent, the excise duties were not productive, and thus this plan also, the last which would give a local character to the revenue systems of the province, was given up.

Finally, some one having in mind possibly the financial relations between the central government and the municipalities in England suggested the idea of subsidies. It was proposed that the Dominion should pay over to the provinces a fixed annual subsidy for purposes of government.

There was strong opposition both to the principle and on matters of detail, "agreement seemed hopeless, and on or about the tenth morning after the convention met the conviction was general that it must break up without coming to any conclusion. The terms of mutual concession and demand had been drawn to their extremest tension and silence was all around. At last a proposition was made that the convention should adjourn for a day and that in the meantime finance ministers of the several provinces should meet, discuss the matter among themselves, and see if they could not agree upon something. On the following morning they reported the conclusions at which they had arrived. These with some modifications were ultimately adopted by the convention, reduced to resolutions, and the 'financial crisis' passed away."

The finance ministers had gone to work by dividing up the debt of Canada into five millions of local debt connected with local assets to be retained by the Province, and sixty-two and a half millions of general debt to be assumed by the Dominion, together with all assets connected therewith. This last amounted to about $25 a head on the people of

Canada, and the debts of the other Provinces were levelled up to that average; Nova Scotia being allowed to bring in eight millions, and New Brunswick, seven millions of debt.

The estimate for the annual subsidy was founded on the wants of Nova Scotia. After scaling down the local expenditure of this Province it was found that they still exceeded the local revenues by $264,000, or by an amount equal to 80 cents per head on the population. Accordingly it was decided that each of the Provinces should receive an annual subsidy from the Dominion, amounting to eighty cents per head on the population of the Province. However, in order to discourage extravagance in the provincial legislatures, and to fix a limit to the liability which was to be assumed by the Dominion, it was provided that the calculation of the subsidies should be based on the population in 1861. Thus the resolutions of the Quebec conference ran:

61. The debt of Canada, not specially assumed by Upper and Lower Canada respectively, shall not exceed at the time of the union $62,500,000; Nova Scotia shall enter the Union with a debt not exceeding $8,000,000, and New Brunswick with a debt not exceeding $7,000,000.

64. In consideration of the transfer to the general parliament of the powers of taxation, an annual grant in aid of each province shall be made, equal to eighty cents per head of the population, as established by the census of 1861. . . . Such aid shall be in full settlement of all future demands upon the general government for local purposes, and shall be paid half-yearly in advance to each province.

Thus far all four provinces were on the face of

the resolutions at least to be placed on an equal footing. A special clause, however, was introduced in favour of New Brunswick.

65. The position of New Brunswick being such as to entail large immediate charges upon her local resources, it is agreed that for the period of ten years from the time when the union takes effect an additional allowance of $63,000 per annum shall be made to that province. But that so long as the liability of that province remains under $7,000,000 a deduction equal to the interest on such deficiency shall be made from the $63,000.

In the Canadas, the resolutions of the conference seem to have met with a pretty general acceptance, but they encountered such a storm of opposition and criticism in the maritime provinces during the two years that followed, that when the representatives of Canada, New Brunswick and Nova Scotia met in London, in November, 1866, the prospect of confederation was gloomy enough. It was evident that something must be done to meet the reasonable objections of Nova Scotia and New Brunswick. Even in the Quebec conference it had been found to be impossible to hold the balance between province and province exactly even, and now it was clear that further concessions were necessary to secure the adherence of Nova Scotia and New Brunswick, concessions which were acquiesced in by the representatives of Upper Canada as the necessary price of release from the accumulating difficulties of the union then existing with Lower Canada. Accordingly, the resolutions of the Quebec conference were modified in two ways :

1. By giving an increased subsidy in addition to the eighty cents a head of $80,000, $70,000, $60,000 and $50,000 to Upper Canada, Lower Canada, Nova Scotia and New Brunswick respectively, amounting to about 5 cents, 6 cents, 18 cents and 19 cents per head on the population.

2. By extending the capitation subsidy of 80 cents in both New Brunswick and Nova Scotia until the population reached 400,000.

With these modifications the resolutions were made the basis of the British North America Act.

So that it would seem that the explanation of the financial clauses of the British North America Act is to be sought in the history of the tax systems of the provinces up to the time of Confederation, and the history of the development of responsible government and direct taxation in the municipalities —and that, given certain provincial tax systems and given a certain development of the municipalities, given, too, the dread of direct taxation resulting therefrom, and the absence of any compelling political motion, the system of subsidies to the provinces agreed on in the Quebec conference was as nearly as possible inevitable, and if such things be, may be set down as a historical necessity—that taking population as a standard, it was found necessary to depart from it almost immediately by basing the subsidies on the population of 1861, and giving an additional grant to New Brunswick, and that a further departure was made in giving lump sums to the provinces for purposes of government and extending the population basis for the capitation

subsidy to 400,000 for New Brunswick and Nova Scotia first, and Manitoba, British Columbia and Prince Edward Island later—that these changes have not been favourable to Quebec and Ontario, but have been acquiesced in by the former because they brought with them a workable government, and agreed to by the latter as the price to be paid for control over her own expenditures.

Better Terms.—The financial arrangement established by sections 102 to 119 of the British North America Act was without doubt regarded as final and unalterable. The subsidies there provided for were "*to be in full settlement of all future demands upon Canada.*" But it soon appeared that this expectation was not to be fulfilled.

The people of the Lower Provinces had never been enthusiastic for union with the Canadas and it was only after several political contests that the unionists secured a majority in the New Brunswick Legislature. In Nova Scotia the position was still worse. The union had there been accepted by a legislature elected upon different and less important issues No sooner had the people a chance to pronounce upon the scheme than public opinion was found to be overwhelmingly against it. The repealers obtained a large majority in the new legislature. Repeal associations sprang up in all parts of the province. The members of parliament from Nova Scotia came to Ottawa as enemies to look on and protest rather than as friends to assist in the organ-

ization of the new government, and their most influential leaders refused office in the federal administration. Nova Scotia considered herself to have been unfairly treated in the matter of public revenues, to have been made a party to an unfavorable bargain without her own consent.

It was claimed in the first place that the financial arrangements, the assumption of debts and the granting of subsidies, should not have been based entirely upon population, but that the amount of revenue contributed by each province should have been considered. The imports of Nova Scotia in 1866 amounted to $39.37 *per capita*, while those of Canada amounted only to $19 38. The *per capita* duty paid by Nova Scotia was $3.76, by Canada only $2.92. In the assimilation of tariffs, moreover, that of Nova Scotia had been raised from 10 per cent. to 15 per cent., while that of Canada had been lowered from 20 per cent. to 15 per cent; and other taxes, such as excise and stamp duties, etc., had been added, which to Nova Scotia had hitherto been almost unknown. Even in the application of the principle of population it was claimed that Nova Scotia had been allowed a smaller debt per head than any other province.

In the second place it was maintained that the Upper Provinces had been allowed to retain valuable assets which would yield a large revenue, while Nova Scotia possessed no property of a corresponding value. It therefore resulted that whereas the

revenues of Ontario and Quebec for local purposes would be largely increased by the new arrangement, those of Nova Scotia would be so much decreased as to make it impossible for her to meet her local expenditure without a resort to direct taxation.

Had she remained out of the union and increased her tariff to 15 per cent. she would have been able to meet all the expenses of government and local improvement and enjoy an actual surplus in reduction of debt. Still further it was pointed out that the other provinces had ceased to expend anything upon public works immediately after the Quebec Resolutions were adopted, while Nova Scotia had continued her expenditure in this way to such an extent that her debt had been doubled between 1864 and 1867, and the works themselves were to be transferred to the Dominion. She had been allowed to bring into the union a nominal debt of only $8,000,000. Her actual debt had now reached the sum of $9,180,000, and the interest on the excess would be deducted from her subsidies, already much too small to support her government. There was therefore nothing for Nova Scotia to do but to adopt direct taxation, or to get better terms from the Dominion, thus breaking through the settlement of 1867, or to withdraw from the union altogether. The latter could not be done without the assent of the Imperial Government which had declared that confederation was "important to the interests of the whole Empire." Direct taxation had been continually set aside and the only

other solution was to rearrange the financial terms of the union.

The Dominion Government recognized the substantial justice of the claim and decided to grant some relief. Parliament was asked to pass an Act providing that Nova Scotia should be considered to have entered the Union with a debt of $9,188,756 (that is, at $27.77 a head, as in the case of New Brunswick) and should receive (again as in the case of New Brunswick) an exceptional subsidy for ten years until her local sources of revenue could be developed. The debates upon this measure in the Dominion Parliament in 1869 and 1870 show that the importance of the question was mainly constitutional. If Confederation was a compact between the provinces confirmed by Imperial Act, could the Dominion Parliament alter the terms of that agreement? Was a "strict construction" or a liberal one to be placed upon the B.N.A. Act, 1867? Upon this question political parties divided.

Mr. Blake declared that the Government was "asking this Parliament to claim the right of amending the Imperial Act and saying that such and such figures should stand for certain other figures in that Act"; that "the conditions of the Union effected by this Act were not amendable, repealable or alterable by this Parliament except in so far as by the Union Act power was given so to do. Was it to be supposed that any of the provinces would have consented to surrender their rights as independent provinces

if they imagined that the conditions of the Union should be alterable at the will of this Parliament? . . . What Parliament did on that occasion it may at some future time undo. The additional subsidy given to Nova Scotia did not rest upon the same secure basis as the original subsidy provided for in the Union Act." "This Constitution is a compact between the provinces, and the Imperial Act expressly states that its object is to ratify that treaty . . . and it is a manifest breach of that partnership for this Parliament to interfere and take the common stock to apply to local purposes not common to the whole." "By the assumption by the Parliament of Canada of the power claimed, the former evils so far from being removed by Confederation will be intensified, the just expectations of the people will be disappointed, sectional strife will be aroused, the Federal principle will be violated, and the constitution will be shaken to its base."

Sir John Macdonald, more inclined to extend the powers of the central government, and therefore to construe the constitution more broadly, declared that "the House had still the power of spending its money as it saw fit. It had a right to do what it liked with its own; to raise such revenues as it thought proper, to expend that money as it thought proper, and to misuse it if it thought proper. No authority could prevent it and it would be an infringement of the principles of responsible government if the case were otherwise. The British North America Act contained the same words as did the Act of 1791, which

conferred upon the province of Upper Canada the power to deal with "the peace, order and good government of the province." The law officers of the Crown in England concurred in this view and held that the power to grant additional subsidies was implied in the 91st section of the B.N.A. Act, which enacted that "it shall be lawful for the Parliament of Canada to make laws for the peace, order and good government of Canada in relation to all matters not coming within the classes of subjects by this Act exclusively assigned to the legislatures of the provinces."

The bill therefore passed, and the first break was made in the "full settlement;" but Nova Scotia was reconciled to the union.

As regards the legal question involved in this proceeding, while there can be little doubt that the framers of the constitution intended to close the door to all future grants from the federal treasury, it is also plain that such grants had not been expressly forbidden, and that the language of the 91st section is open to the more liberal construction. But aside from this, it is difficult to understand, when the federal government had been made the chief source of provincial revenues and the most intricate financial relations had been established between the Dominion and the provinces, how any constitutional restriction, however carefully worded, could have prevented the Dominion government from departing in some way or other from the original arrange-

ment and expending its revenues as the interest of the country, as a whole, seemed to it to require.

From this time forward, that is, from the time when Nova Scotia ceased to agitate for a repeal of the British North America Act, 1867, and gave in her assent to the union, and from the time that it was decided that the Dominion Government had the power to alter the financial arrangements of Confederation, founded in inter-provincial agreement, in favour of any of the provinces, a new element enters into the question in the shape of the new Dominion, and the question of provincial subsidies ceases to be a purely inter-provincial question.

The financial arrangements between the Dominion and the provinces of Manitoba, Prince Edward Island and British Columbia, the increase in the subsidies in 1873 and 1884 would seem to be best approached from a standpoint not provincial but extra-provincial or national.

The Act of May 23rd, 1873, raised the amount of debt which Ontario and Quebec jointly were allowed to bring into Confederation from $62,500,000 to $73,006,088.84, and increased the amounts of debt allowed New Brunswick and Nova Scotia in proportion. The Act of April 19th, 1884, made the increase of 2873 date from date from July 1st, 1867, thus raising the amounts due to the different Provinces as follows :

	Yearly Increase.	Capital.
Ontario and Quebec jointly.....	$269,875.16	$5,397,503.13
Nova Scotia.....	39,668.44	793,368.71
New Brunswick	30,225.97	604,519.35
Manitoba.....	5,551.25	110,825.07
British Columbia.....	4,155.39	83,107.88
Prince Edward Island	9,148.68	182,973.78

By the act of 23rd May, 1893, it was provided that New Brunswick receive an additional annual subsidy of $1 subsidy of $150,000 on condition that all provincial duties on lumber exported from that province be repealed.

The Dominion Act of 1870 erecting the new province of Manitoba provided—1. that as the province was without debt it should be entitled to receive interest from the Dominion at five per cent. on the sum of $472,090, that is, should be allowed to bring in a nominal debt estimated at $27.77 per head of the population, thus placing her upon the same footing as Nova Scotia and New Brunswick. 2. That an annual lump sum of $30,000 and an annual grant of eighty cents per head, increasing with population until this should reach 400,000, should be paid by the Dominion for the support of the Government and Legislature. This was declared to be "in full and final settlement of all future claims upon Canada." By an Act of 1876 an additional annual grant of $26,746,96 was allowed Manitoba for six years, raising the total subsidy to $90,000 a year. By an Act of 1879 another additional grant of $15,653.04 was allowed for two years.

An Act of 1881 effected a complete rearrangement of the financial relations between Manitoba and the Dominion. A lump sum of $50,000, a grant of eighty cents per head on a population of 150,000 ($120,000) and, as the Dominion had retained under her own control the public lands of Manitoba, the sum of $45,000 a year in lieu of revenue therefrom, were to be paid to Manitoba, for the period of ten years. Before this period elapsed the act of 1885 explained by that of 1886 provided that the indemnity in lieu of public lands should be increased to $100,000 per annum. The lump sum of $50,000 a year was to continue. The per capita allowance of eighty cents per head on a minimum population of 150,000 was to be increased every five years proportionately to population until this should reach 400,000. The nominal debt upon which Manitoba was to receive interest from Canada was to be calculated on a population of 125,000 instead of 17,000 as provided in the act of 1870. These sums were once more "to be in full settlement of all questions and claims discussed between the Dominion and Provincial Governments *up to 1885*."

In 1871, British Columbia entered the union under an agreement—1. That the debt allowance be $27.77 on a population of 60,000. 2. That an annual subsidy of $35,000 and an annual grant of 80 cents per head on a population of 60,000 be paid by the Dominion in support of its government and legislature, such grant to increase as in the cases of Nova Scotia and New Brunswick. 3. That in return for the public lands to be conveyed by the province in aid of the construction of the Canadian Pacific Railway, an additional annual subsidy of $100,000 be paid by the Dominion.

In 1873 Prince Edward Island entered Confederation under an agreement. 1. That the debt allowance be $50 per head on the population of 1871 or $4,701,050. 2. That the Dominion pay a subsidy in support of government of $30,000 annually and an annual grant equal to 80 cents per head on the population of 1871, such grant to increase with increase of population, as in the cases of Nova Scotia and New Brunswick. 3. That in the absence of provincial revenues arising from public lands an additional annual subsidy of $45,000 be paid by the Dominion. The act of June 23rd, 1887 provided that Prince Edward Island should receive an additional annual subsidy of $20,000 from the Dominion.

The following is a statement of the educational institutions attended and the degrees, etc. received by the writer:

.....1888 The Collegiate Institute, Strathroy, Ontario; 1888-1892 University College, Toronto; 1892-1894 Columbia College, New York.

1892 B.A. University of Toronto; 1888-1892 The Governor General's Medals for proficiency in the Departments of Classics and Political Science in the University of Toronto; Blake Scholarships in Political Science, Prizeman in History; 1892 and 1893 Fellowship in Jurisprudence, Columbia College, New York; 1893 A.M. Columbia College; 1894 Examinership in Constitutional History in the University of Toronto.